IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

W.A.No.388 of 2006

AGAINST THE JUDGEMENT IN O.P.NO.30228/1999-W DATED 05/01/2006

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APPELLANT: PETITIONER:-

T.M. JAMEELA IBRAHIM,
ADVOCATE, JAMI MANZIL, T.B. ROAD, KOLLAM.

BY ADV. SRI.SIRAJ KAROLY

RESPONDENTS/RESPONDENTS:-

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1. TAHASILDAR, KOLLAM,
   (ASSESSING AUTHORIYT UNDER THE KERALA BUILDING TAX ACT.)

2. DISTRICT COLLECTOR, KOLLAM.

3. STATE OF KERALA,
   REPRESENTED BY ITS SECRETARY TO THE REVENUE DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

4. VILLAGE OFFICER,
   VADAKKEVILA P.O., KOLLAM.

BY SPECIAL GOVERNMENT PLEADER (TAXES) SRI.V.V.ASHOKAN.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.388 of 2006

Dated, this the 4th day of June, 2007

JUDGMENT

H.L.Dattu,C.J.

The orders passed by the learned Single Judge in O.P.No.30228 of 1999 dated 5.1.2006 and the orders passed by the Tahsildar, Kollam in No.A4-6582/89 dated 27.10.1999 are the subject matters of this Writ Appeal.

2. The brief facts are: The petitioner is the owner of a building used for commercial purpose. The Tahsildar, Kollam had passed an assessment order under the provisions of the Kerala Building Tax Act ("Act" for short) on 1.9.1988. The assessed tax was paid by the assessee. The assessing authority by his order dated 27.7.1989 had passed an order of rectification and also had issued a demand notice. The assessee by accepting the fresh rectification order had paid the demand raised under the rectified order.

3. Aggrieved by the said rectification order, the assessee had carried the matter in an appeal before the Revenue Divisional Officer. The same was dismissed on 30.6.1990. Aggrieved by the said order, a revision was filed before the District Collector who, by his order dated 10.6.1992, had allowed the appeal and had remanded the matter to the assessing authority to redo the matter in accordance with law. After such remand, the assessing authority/Tahsildar, Kollam has passed yet another order dated 20.7.1993.

4. Nearly after six years from the date of passing of the fresh order by the Tahsildar, yet another notice dated 27.10.1999 is issued to the

appellant/petitioner. Aggrieved by the same, the petitioner was before this Court in writ petition. The one and only contention canvassed by the petitioner before this Court was that the notice so issued is beyond the time prescribed both under Section 13 and Section 15 of the Act. Therefore, request was made to cancel the notice so issued by the Tahsildar, Kollam.

5. Sri.V.V.Ashokan, learned Special Government Pleader (Taxes) sought to justify the impugned order.

6. Section 13 of the Act gives power to the District Collector to initiate suo motu revisional proceedings and that can be done within three months from the date of the orders sought to be revised. Section 15 of the Act authorises the assessing authority, the appellate authority and the revisional authority to rectify a mistake apparent on the face of the record in an assessment order, appeal order or a revisional order and that can be done within three years from the date of the orders sought to be rectified.

7. In the instant case, we have noticed the date of the orders passed by the assessing authority and the revisional authority. Keeping in view those dates if we look at the notice issued by the 1st respondent-Tahsildar, the same is barred by limitation, both under Section 13 and Section 15 of the Act. This aspect of the matter ought to have been noticed by the learned Single Judge before rejecting the writ petition. In view of the above, the appeal requires to be allowed as under:

Order

(i) Writ Appeal is allowed.

(ii) The impugned order passed by the learned Single Judge and the order passed by the Tahsildar, No.A4-6582/89 dated 27.10.1999 are quashed.

(iii) In the facts and circumstances of the case, the parties are directed to suffer their own costs.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-